**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**WRIT PETITION NO. 732 (MS) OF 2006**

Vinay Kumar,
S/o Sua Lal Meena,
R/o House No. 4/B Railwa Colony, Rdurapur,
District Udham Singh Nagar. .....Petitioner.

Versus

1. Uttaranchal Shiksha Evam Pariksha Parishad, Ram Nagar, District-Nainital, through its Secretary.
2. Secretary, Uttaranchal Shiksha Evam Pariksha Parishad, Ram Nagar, Distrit-Nainital. .....Respondents.

**Dated: 16.06.2006**

**Hon'ble Rajesh Tandon, J.**

Heard Sri M.S. Pal, Sr. Advocate, assisted by Sri V.S. Pal, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to re-evaluate the answer-sheet of the petitioner of Physics 1st paper.

Briefly stated, the petitioner appeared in the Intermediate Examination, 2006 as a regular candidate with subjects of General Hindi, English, Physics, Chemistry and Mathematics from Janta Inter College, Rudrapur, District U.S. Nagar with Roll No. 0072958.

According to the case of the petitioner, he appeared in all the papers of the Hindi, English, Physics, Chemistry and

Mathematics and she answered all the papers with his full satisfaction.

However, the result was declared in June, 2006 and the petitioner could not succeed in the said examination and on getting the mark-sheet, it was revealed that in Physics IInd paper, he has got good marks, but in Physics first paper, he has not succeeded. So far as the evaluation is concerned, there is no provision for evaluation for evaluating the marks and as such no relief can be granted to the petitioner.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of the answer books of Physics-Ist paper.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evam Pariksha/respondent no. 2 on the same day when the certified copy of this order shall be produced before the authority concerned as according to the case of the petitioner, he has qualified the examination of B.Tec and counseling is fixed on 25.06.2006.

In ***Vaibhav Pandey v. Board of High School and Intermediate Education (1998)2 U.P.L.B.E.C. 1501,*** it has been held as under:-

> *"2.The past record of the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks out of 32 in Hindi 3rd papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hindia IIIrd paper has not been correctly examined.*

*3. This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."*

*The aforesaid judgment has also been followed in Trishma Singh vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:-*

*"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v. Board of High School & Intermediate Education (1988) 2 UPLBEC 1501, in which this Court held as under:*

*This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."*

It has further been held by the Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

*"It is a matter of great concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."*

Thus, the respondent no. 2 is directed to get the scrutiny of the answer books in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent no. 2 is directed to get the scrutiny done after the petitioner applies for the same on the very same day.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

16.06.2006
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